



CITY OF ST. MARYS
418 OSBORNE STREET
ST. MARYS, GEORGIA 31558

MINUTES for PUBLIC HEARING and REGULAR MEETING

St. Marys, Planning Commission
Tuesday, June 5, 2012
City Hall Council Chambers

PUBLIC HEARING

The meeting was called to order at 3:00PM.

The following committee members were present: Charlotte Bartzack, Arlene Norris, Doug Cooper and Royal Weaver. Larry Johnson was not in attendance.

Roger Weaver and Michele Wood represented the Planning Department.

Charlotte Bartzack, as Vice Chair, called the meeting to order.

(NOTE: These are not verbatim minutes. The CD of the meeting is available for those who desire to hear the entire meeting.)

The following items were heard in Public Session at a Public Hearing held Tuesday, May 22, 2012 at 5:30 PM in City Hall Council Chambers, 418 Osborne Street, St. Marys, GA 31558.

1. **VARIANCE:** James Hunter, 111 Bowen Street, St. Marys, GA 31558 is requesting a rear yard variance of 12' (15'-0" Required, 3'0" Requested) to add on to an existing storage building at 111 Bowen Street. The property is zoned R-1, Tax Parcel S23-06-005.

James Hunter presented his request for a variance to the Planning Commission. There were no comments or questions from the public.

2. **VARIANCE:** Randall Redden, 124 Chelsea Place, St. Marys, GA 31558 is requesting a side yard variance of 10' (10'0" Required, 10'0" Requested) for an existing deck located at 124 Chelsea Place. The property is zoned R-3, Tax Parcel S39A-013.

Mr. Redden presented his request to the Planning Commission. Mr. Redden shared the history of what had transpired with his property beginning in 2004 as a result of a back injury that left him disabled.

- *Mr. Redden submitted and was approved for Variance in 2004 for the rear property to construct a deck and ramp.*
- *In 2010 Mr. Redden applied for a building permit to replace the deck which had deteriorated. Mr. Redden stated he then requested to take the deck to the property line because he needed the extra space to turn the scooter around. The deck and the additional size were approved and a permit was issued from the City to proceed with no mention of a side yard variance being required.*
- *In 2012, Mr. Redden stated the Maurins had spoken to Mr. Redden regarding the privacy issues with the deck built so close to their property line. Mr. Redden built a curtained pergola on the deck to provide more privacy between his structure and the Maurins property. He stated that is when the problems began as the deck had been constructed two years prior with no complaints.*
- *After the construction of the pergola, the Maurins filed a complaint to the City. Roger Weaver contacted Mr. Redden and they reviewed the complaint. Mr. Redden stated Mr. Weaver stated the City didn't have a problem with the deck with the understanding if there was ever a drainage problem within the easement and access was required, Mr. Redden would be responsible to make any necessary repairs. After the meeting with Roger Weaver, the Maurins found information from an Open Records request where the 2004 variance was only approved for the rear setbacks. There was never a variance issued for the reduction of a side yard setback. Mr. Redden stated in 2004 he purchased the property from Wiley King who owned the property at that time and asked for his help in the construction of the ramp, deck and the porch and followed it to the letter and as he did when granted the permit in 2010. Mr. Redden stated he had also made interior changes making everything handicap accessible. Mr. Redden requested the Planning Commission allow the deck to remain stating he did everything he was told to do by the City. (After the meeting, staff researched this comment and this statement is incorrect. Based on the Camden County Tax Assessors Maps, Mr. King sold this property to Kimberly Panthen in 1997. The property was sold to Mr. Redden in 2000. The seller was shown as Kennon Realty Service.)*

Charlotte Bartzack requested Roger Weaver to comment on the approvals or non-approvals for the City. Roger Weaver confirmed a variance was issued in 2004 for the rear setback. Roger Weaver was not employed with the City at the time and stated there was no documentation in the files that showed how or why the handicap ramp was built within the side yard setback or whether this was approved by someone within the planning or building department at that time. Roger Weaver stated in regard to the 2010 building permit, when Mr. Redden requested to replace the deck due to weathering, and the ramp was no longer needed, the permit was issued noting he was replacing the existing deck with the assumption that approval had been given for the side yard. In 2012 the Reddens put up a 10' x 10' pergola which is not subject to a building permit per City ordinances. Roger Weaver stated he checked all scanned documents for variances and was unable to locate any variances issued for Mr. Redden's property after the initial 2004 variance. Mrs. Redden requested to make a comment to what Roger Weaver stated regarding Mr. Redden no longer needing the handicap ramp. Ms. Redden stated that Mr. Redden however could at any moment have need for the handicap ramp. Ms. Redden stated they have a metal ramp that will cover the stairs in case Mr. Redden should require a wheelchair again. Mr. Redden added that all work done to the porch, ramp and deck was done at the time of the permitting. There was no work done in between permits issued.

Ms. Margaret Maurin, 126 Chelsea Place, requested to speak to the Planning Commission. Ms. Maurin had requested the Planning Commission to deny the request. Her concerns are noted as follows:

- 2004 Variance was issued for the rear yard only. The Maurins realized the variance was issued for the rear property. However, they did not file a complaint due to his need for the ramp.
- Blocking the easement providing ingress and egress which allows the other units of the town home access to the rear of the structure for maintenance and repairs; emergency access; storage of trash containers.
- Mr. Redden being allowed to build and use the full 10' required for the side yard setback up to the Maurin property line
- It was determined that part of the Mr. Redden's deck is encroaching onto the Maurin property line.
- The 2010 building permit noted Mr. Redden was replacing a 10' x 20' deck. Ms. Maurin stated he never had a 10' x 20' deck. He was replacing the handicap ramp.
- Mr. Redden being allowed to build the deck all the way to the fence.
- The original permit for the deck noted the deck would be 30" in height. The deck is higher than 30 inches.
- In regard to the pergola, because it does not have a roof, the City does not require a building permit. The pergola has 18 rafters on the roof and is a permanent structure that was constructed on the deck. Including the height of the deck, the structure is probably 10' to 11' in height.
- The proximity of their deck to her bedroom window in regard to privacy and noise from their pets. Ms. Maurin stated she is a quilter and uses her bedroom to quilt and for use of her computer. It is her private space.
- Ms. Maurin stated they would never have objected at any time for Mr. Redden to have a handicap ramp. However, they do object the present structure.
- Questioned whether the Redden's exceeded the percentage of lot coverage allowed.

Mr. Maurin requested to comment stating his concerns of Mr. Redden being allowed to build a 10' x 20' deck in replacement of the handicap ramp and Mr. Redden being allowed to relocate the hot tub from the porch to an area of the property next to the property line.

Mr. Redden made an additional comment stating no one residing in the townhomes has any issues with the location of the deck.

Ms. Norris requested Roger Weaver to share whether Mr. Redden had done everything required by the City to construct the deck. Roger Weaver stated that this is part of the dilemma. There is no information on file to show whether or if any City approval was granted to Mr. Redden in regard to being allowed to build within the 10' setback. Roger Weaver stated that in 2010, Mr. Redden asked and he did approve, to allow the deck to go all the way to the fence since it would have already been within a foot and a half from the fence already. Mr. Weaver mentioned that Ms. Maurin stated they had called in 2010 regarding the deck. Roger Weaver stated there was no record or recollection of that information but that he would take her word on that. Mr. Weaver stated in 2010 Mr. Redden was approved to replace the existing deck and it was assumed he had received previous approval of the deck. Roger Weaver agreed there is confusion trying to reconstruct what happened and what didn't happen. Roger Weaver did mention that he had confirmed with the City Attorney that the Planning Commission did have the authority to approve a variance now if they so choose.

Charlotte Bartzack, in summarizing the request, asked Roger Weaver if she was correct in saying the new deck in 2010 was built 10' closer to the property line. Roger Weaver explained the ramp was built at the height required for a handicap ramp. When the new deck, which replaced the ramp, was constructed, it was constructed at that height. It was also constructed at the same distance from the property line, which previously was one and a half feet from the property line. The deck was allowed to go to the property line for safety purposes. Ms. Bartzack asked about safety concerns with the deck as is. Roger Weaver stated the back area is open up to the cemetery if emergency access was required. Also, anyone could go over the deck if access was needed. Royal Weaver was questioned whether the deck was over 30" in height. Roger Weaver stated that it was; however, it would have been in compliance in 2005. Royal Weaver asked Roger Weaver if the deck, constructed in 2010, should have been constructed according to the building code at that time. Roger Weaver explained it was raised to meet the existing ramp. Royal Weaver questioned when there is an existing variance, and you build something new, unless that new construction is on the exact footprint the property owner would have to apply for a new variance. Roger Weaver agreed a new variance would be required. However, when it was built the assumption was that the variance was already there. Royal Weaver asked that when the 2010 building permit was issued, it was assumed the deck was one size and it was actually another. Roger Weaver responded in the affirmative.

Theresa Richards, owner of 127 Chelsea Place, requested to speak to the Planning Commission. Ms. Richards stated she no longer lives at her property. Ms. Richards stated when she lived at her residence she could be out on her front porch and was unable to see the deck. She stated the deck was low and in the rear and was not noticeable. She stated now when you look, you see a huge deck much bigger than what was there before.

Motion to Adjourn Public Hearing - Motion was made by Arlene Norris to adjourn the Public Hearing; Second by Doug Cooper. Voting was unanimous in favor of the motion.

REGULAR MEETING

New Business

1. **VARIANCE:** James Hunter, 111 Bowen Street, St. Marys, GA 31558 is requesting a rear yard variance of 12' (15'-0" Required, 3'0" Requested) to add on to an existing storage building at 111 Bowen Street. The property is zoned R-1, Tax Parcel S23-06-005.
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Doug Cooper made a motion to approve the request for discussion; Second by Royal Weaver.

DISCUSSION: Royal Weaver made a comment that it appeared the complaint arose due to the pergola being added on to the deck. Royal Weaver asked the chair if the question could be addressed to the neighbors if the pergola was removed, and the deck be allowed to remain, would that satisfy the neighbors in this situation. The neighbors were allowed to answer and they stated removal of the pergola would not satisfy the issue.

Mr. Maurin reiterated their concerns regarding the ingress and egress and the easement provided for that. Greg Lockhart, son-in-law of the Maurins, stated his family constructed the majority of the Chelsea townhomes and there was a perpetual easement provided for the property owners to allow them to take their trash cans to the rear of the property without having to go up and over a deck, for maintenance and other things. Mr. Lockhart stated the deck has totally blocked the perpetual easement which is noted on the subdivision plat. Roger Weaver stated that townhomes are allowed to put a fence to divide their property which prevents access. However, Roger Weaver did agree with Mr. Lockhart that the plat does show an easement for ingress and egress.

Mr. Redden commented that the only people at the meeting objecting to the issuance of the variance are the other home owners, not the town home property owners. Mr. Redden stated he had a statement from the town home owner adjacent to his and could get others. He stated there was no one at the meeting opposing him that lived in the townhomes. Mrs. Redden stated the other row of townhomes when you first enter Chelsea Place all have a fence enclosing their properties.

The chair requested the Planning Commission members to vote on the motion. The motion stated was to approve the request. The vote was (1) to approve, (3) to deny. Ms. Norris voted to approve the request.

Motion to Adjourn Regular Meeting – A motion to adjourn the regular meeting was made by Royal Weaver; Second by Doug Cooper. Voting was unanimous in favor of the motion. The meeting adjourned at 4:07PM.